

CONCISE EXPLANATORY STATEMENT

May 9, 2001 Adoption Date

September 1, 2001 Effective Date

January 24, 2001 Public Hearing - Vancouver, Washington

January 25, 2001 Public Hearing - Spokane, Washington

January 26, 2001 Public Hearing - Yakima, Washington

January 29, 2001 Public Hearing - Seattle, Washington

January 30, 2001 Public Hearing - Tumwater, Washington

Reason for adopting these rules:

In 1999, the Washington State Legislature approved funding for a re-design of WISHA safety and health rules. Innovations will contribute to safer and more healthful workplaces in Washington by simplifying the language of the rules and organizing them for ease of use. The purpose of this project was to develop a user-friendly rulebook of core requirements that apply to most employers in the state of Washington. We organized safety and health rules that apply to most employers in an easy-to-use rulebook. We did not change or increase requirements as part of this rulemaking effort.

We received public comment on the following sections and, when appropriate, modified our proposed amendments as indicated below. Primarily, the comments received were in support of these rules being adopted. All other sections proposed for amendment did not receive comment.

AMENDED SECTION: WAC 296-800-13005, Establish a safety committee or have safety meetings

Comment Received:

- Recommend the addition of a note that specifically allows for situations involving collective bargaining agreements and non-steady employees, i.e. labor dispatched from a union hall to the employer(s). Wording such as "A third-party joint safety committee, comprised of elected employee representatives and employer representatives, is acceptable as an employer safety committee." Joint PMA employer - ILWU safety committees are specifically provided for in our collective bargaining agreement. They generally reflect the requirements for frequency and makeup as outlined in your rules for individual employers. PMA has been facilitating such joint safety committees for many years between member company representatives and the ILWU. PMA acts as the executive secretary and keeps the minutes for all attendees.

Department Response:

- Added language to address union elected individuals to act as the employee members of the safety committee. In the Safety Standards for Longshore, Stevedore and Related Waterfront Operations, 296-56-60009(8) states "To make effective the preceding statement and promote on-the-job accident prevention, committees shall be established in each port. These committees shall consist of an equal number of port or stevedore company and longshoremen representatives at the job level with the industry or company safety supervisor serving as secretary and coordinator. Some functions of the committee are to maintain the interest of the workers in accident prevention by providing for their actual participation in the program, to direct their attention to the real causes of accidents, and to provide a means for making practical

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use of their intimate knowledge of working conditions and practices.” This is unique to this industry.

Changes to the Rule:

- Added a note that reads: “Employees selected by the employees bargaining representative or union qualify as "employee-elected."

AMENDED SECTION: WAC 296-800-14005, Develop a formal, written accident prevention program.

Comment Received on this Section:

- Recently, a table was inserted into WAC 296-24-040 denoting all the locations where regulations required to be considered in the Accident Prevention Plans were located. This table was very useful to ensure that all the required provisions were considered. This table should be re-created once the core rules revisions are completed and the new rules numbers are known. If this project is to extend over a considerable period of time, it is suggested that an interim list be created with a combination of the old and new cites.

Department Response to Comment:

- We agree that the table created for where other written program plan requirements were located was useful. We did create “other written programs required” as a helpful tool which includes the table with the helpful information and this will be available in the resource section of the Safety and Health Core Rules.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-14020, Develop, supervise, implement, and enforce safety and health training programs that are effective in practice

Comment Received on this Section:

- Recognition of third party training. PMA has conducted training for our member companies for over 50 years. Our situation is unique in that member companies receive labor from dispatch halls and personnel rotate from employer to employer. Our maritime training videos and materials are sought by marine cargo handling companies and associations nationwide. There should be provisions in these regulations to formally acknowledge the role of third party trainers. This issue recently came to the fore during the negotiations and formal settlement with Fed OSHA regarding Powered Industrial Truck Training (29 CFR 1910.178(l)). Third party training was acknowledged in that settlement. Wording such as in Paragraph 4 of the settlement to the effect that "An employer may rely on a third-party trainer's certification that an employee has been trained and evaluated"... "if the training entity presents to the employer -- who shall make it available to OSHA [WISHA] upon request -- verification that the training program conforms to the standard and includes a list of topics covered by the training." This concept was recently accepted by WISHA in your Regional Compliance Directive 7.05 Powered Industrial Truck Training in Longshore and Marine Terminals. This has

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application to other industries as well. Any employer who relies on a third part trainer needs to be covered with this type of wording.

Department Response to Comment:

- WISHA accepts training provided by third party providers. However, the employer is still responsible for the content and applicability of the training required by the rule for the workplace.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-15010, Make sure first aid training contains required subjects.

Comment Received on this Section:

- It should be noted that this list contains subjects for both general first aid and Cardio-Pulmonary Resuscitation (CPR). The interval required for training is two years. This is in conflict with the American Red Cross interval requirements of every three years for general first aid training and one year for CPR training. It should be noted that a person with a valid American Red Cross CPR card needs only an annual CPR refresher to renew the CPR certification. The American Heart Association has similar materials and differing intervals. It is recommended that WISHA require/accept the completion/certification of nationally (or regionally) recognized organizations' first aid and CPR programs as acceptable and compliant. PMA has American Red Cross certified instructors and uses the American Red Cross curriculums and student materials. We standardize this training in all three states where we operate. At present, redundant first aid training (according to the American Red Cross) is required to be given in Washington state only.

Department Response to Comment:

- The department contacted the American Red Cross and nationally, the Red Cross believes that a 3 and 1 is the best training scheduled for first aid and CPR and all their cards denote that the training is good for 3 and 1 years from the date they received the training. However, in Washington state they have a small inscription on the front and back, added to their regular first aid cards, that state that in Washington state the card is good for CPR and first aid for 2 years.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-15025, Provide a first aid station when required.

Comment Received on this Section:

- Providing a first aid station with at least one first aid trained employee available if there are more than 50 employees per shift at one location. PMA's comment is that the wording "with at least...available" should be deleted. This requirement is already documented in WAC 296-800-15005 and is therefore redundant.

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Including it again and in the proposed wording could be mis-construed to be a requirement to have a dedicated First Aid Responder available.

Department Response to Comment:

- We believe this redundancy lends to clarity of the intent of the rule.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-16035, Document PPE training.

Comment Received on this Subsection:

- Requires documentation that employee has received and understood the required training. Documenting training and documenting or proving understanding are two different things. PMA employers need to review the PPE documentation in the resources section, however, evoking a statement of understanding from the worker on site during an inspector's visit in the past has proven to be difficult. Recommend deleting the regulatory requirement to prove "understanding" of the training.

Department Response to Comment:

- The requirement to make sure your employees understand the PPE training is currently in WISHA rule. Taking this requirement out would be a change to this rule and therefore outside the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-16070, Make sure your employees are protected from drowning

Comment Received on this Section:

- Lists a Type III PFD device as an acceptable PFD. It should be noted that this is a square cushion type throw-able device not designed to be wearable in the normal "jacket wearable" sense. Rules should limit the PFD's to wearable type devices, and combine them with the throw-able rings and line as in WAC 296-800-16070.

Department Response to Comment:

- Type III PFD, or Flotation Aid is good for calm, inland water, or where there is a good chance of quick rescue. It is designed so wearers can place themselves in a face-up position in the water. The wearer may have to tilt their head back to avoid turning face down in the water. They Type III has the same minimum buoyancy as a Type II PFD. It comes in many styles, colors, and sizes and is generally the most comfortable type for continuous wear. Float coats, fishing vests, and vests designed with features suitable for various sports activities are examples of this type of PFD.

Changes to the Rule:

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- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-180, Material Safety Data Sheets as Exposure Records.

Comment Received on this Section:

- PMA would like to confirm that this section does not apply to situations where unopened container type packaged material is being handled in the unopened undamaged state during transportation. It is suggested that a clarifying note to this effect be added in this section and also in WAC 296-800-17040. If only unopened packages are being handled, there is no exposure.

Department Response to Comment:

- The situation above doesn't meet the definition of exposure in WAC 296-800-370 therefore the MSDS wouldn't be considered an exposure record.

Comment Received on this Section:

- In regards to MSDS, I have a concern as to whether the requirements have increased. On page 180-1, it says, "This rule supplements the chemical hazards communication rule by extending access to MSDS's or their alternative after employment and after the hazardous chemical is no longer used in the workplace" - this means we to maintain that and keep it available to previous employers – I don't believe that is stated in Chapter 24?

Department Response to Comment:

- The requirement existed before in WAC 296-62-052, therefore, no increase in requirements exists.

Comment Received on this Section:

- On page 180-3, it says "You must keep the MSDS's and analyses using MSDS's for at least 30 years including current, former and future employers receiving transferred records. You may keep alternative records instead of MSDS's concerning the identity of the substance. The alternative record must be kept for 30 years and contains the following: Some record of the identity of a substance or agent, where the substance or agent was used, and when the substance or agent was used" – I don't believe those two statements "where the substance or agent was used" or "when it was used" was in Chapter 24.

Department Response to Comment:

- The requirement existed before in WAC 296-62-052, therefore, no increase in requirements exists.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-220, Housekeeping, Drainage & Storage

Comment Received on this Section:

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- Add note: Fire safety and building codes for cities, counties and the state of Washington may be more restrictive than the rules in this section. You are encouraged to call your local fire authority for more information on the fire safety requirements in your area.

Department Response to Comment:

- We added a note in the introduction of the core rulebook that includes information for the employer so they are aware of additional requirements by other authorities such as building, electrical, and fire authorities. We also added a note to the summary page of WAC 296-800-220 directing employers to the note in the introduction.

Changes to the Rule:

- Added note in WAC 296-800-100, Introduction: “How do the WISHA rules relate to fire, building and electrical codes?
Fire Codes: WISHA rules contain basic requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical hazards for the protection of employees in your workplace. The rules contained in this book are the most basic requirements to make sure that as an employer you provide a safe and healthy work environment. However, these aren't the only rules regarding the requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical equipment. The Fire Marshall and local fire authorities enforce the Uniform Fire Code (UFC). WISHA and UFC differ in some areas, for example UFC requires exit sign lettering to be 6” or more and WISHA only states that the letters have to be clearly visible. Fire codes have more detailed and extensive requirements for the protection of the public than WISHA. Some codes overlap with WISHA requirements.

Building and electrical codes: WISHA rules are minimum requirements regardless of when the building was built or remodeled. Buildings must also comply with building and electrical codes at the time of construction. If you remodel you must comply with the building and electrical codes applicable at that time. Building authorities and electrical inspection authorities enforce rules from the Uniform Building Code (UBC), and the National Electrical Code (NEC).

You are encouraged to call your local fire, building or electrical authority. For more information on the requirements in your area look in the government section of your phone book. Copies of these codes are available at your local library.”

- Added note in WAC 296-800-220: “Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See “How do the WISHA rules relate to building, fire, and electrical codes” in the Introduction section of this book.”

AMENDED SECTION: WAC 296-800-250, Stairs and Railings.

Comment Received on this Section:

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- An additional exception should be added to this section for ship's gangways.

Department Response to Comment:

- Out of the scope of this rulemaking. This is an industry specific requirement, which was not addressed in this rulemaking.

Comment Received on this Section:

- Add - Note: Fire safety and building codes for cities, counties, and the state of Washington may be more restrictive than the rules in this section. You are encouraged to call your local fire authority for more information on the fire safety requirements in your area.

Department Response to Comment:

- We added a note in the introduction of the core rulebook that includes information for the employer so they are aware of additional requirement by other authorities such as building, electrical, and fire authorities. We also added a note to the summary page of WAC 296-800-250 directing employers to the note in the introduction.

Comment Received on this Section:

- This exemption is very confusing. When would stairs not be used as part of an exit configuration?

Department Response to Comment:

- Added the word "exclusively" for clarification.

Changes to the Rule:

- Added note in WAC 296-800-100, Introduction: "How do the WISHA rules relate to fire, building and electrical codes?
Fire Codes: WISHA rules contain basic requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical hazards for the protection of employees in your workplace. The rules contained in this book are the most basic requirements to make sure that as an employer you provide a safe and healthy work environment. However, these aren't the only rules regarding the requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical equipment. The Fire Marshall and local fire authorities enforce the Uniform Fire Code (UFC). WISHA and UFC differ in some areas, for example UFC requires exit sign lettering to be 6" or more and WISHA only states that the letters have to be clearly visible. Fire codes have more detailed and extensive requirements for the protection of the public than WISHA. Some codes overlap with WISHA requirements.

Building and electrical codes: WISHA rules are minimum requirements regardless of when the building was built or remodeled. Buildings must also comply with building and electrical codes at the time of construction. If you remodel you must comply with the building and electrical codes applicable at that

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time. Building authorities and electrical inspection authorities enforce rules from the Uniform Building Code (UBC), and the National Electrical Code (NEC).

You are encouraged to call your local fire, building or electrical authority. For more information on the requirements in your area look in the government section of your phone book. Copies of these codes are available at your local library.”

- Added note in WAC 296-800-250: “Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See “How do the WISHA rules relate to building, fire, and electrical codes” in the Introduction section of this book.”
- Added language to the Exemption:
This rule does **not** apply to:
Stairs used exclusively for fire exit purposes

AMENDED SECTION: WAC 296-800-25005, Provide fixed stairs where required

Comment Received on this Section:

- IAW the Uniform Building Code Sec.1003.0.0.8.3 Spiral stairs may only be installed in Group R div. 3 occupancies and private units of Group R div. 1 units (residential) therefore this (the note) is not permissible.

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements. The Uniform Building Code deals with new buildings or remodels and WISHA deals with existing spiral stairs.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-25010, Provide stairs that minimize hazards

Comment Received on this Section:

- IAW Uniform Building Code Sec. 1003.3.3.6 Stairways are required to have handrails on each side.

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Comment Received on this Section:

- Add - Note: Fire safety and building codes for cities, counties, and the state of Washington may be more restrictive than the rules in this section. You are encouraged to call your local fire authority for more information on the fire safety requirements in your area.

Department Response to Comment:

- We added a note in the introduction of the core rulebook that includes information for the employer so they are aware of additional requirement by other authorities

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such as building, electrical, and fire authorities. We also added a note to the summary page of WAC 296-800-250 directing employers to the note in the introduction.

Comment Received on this Section:

- IAW UBC Sec. 1003.3 Landings shall be not less than 44 inches.

Department Response to Comment:

- WISHA's rule is interpreted the same as the Uniform Building Code therefore we clarified the language.

Changes to the Rule:

- Clarified language to read, "Provide a platform where doors or gates open directly on a stairway. The swing of the door must not reduce the effective width of the platform to less than 20 inches."

AMENDED SECTION: WAC 296-800-25015, Provide handrails and stair railings

Comment Received on this Section:

- Add - Note: Fire safety and building codes for cities, counties, and the state of Washington may be more restrictive than the rules in this section. You are encouraged to call your local fire authority for more information on the fire safety requirements in your area.

Department Response to Comment:

- We added a note in the introduction of the core rulebook that includes information for the employer so they are aware of additional requirement by other authorities such as building, electrical, and fire authorities. We also added a note to the summary page of WAC 296-800-250 directing employers to the note in the introduction.

Comment Received on this Section:

- Add – "or every 88 inches" to the end of this secondary bullet.
(UBC 1003.3.3.6)

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements, which is out of the scope of this rulemaking.

Comment Received on this Section:

- Add – Note: WAC 51-40 Washington State Building Code.

Department Response to Comment:

- We added a note in the introduction that refers employers to their local building authority.

Changes to the Rule:

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- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-27015, Make sure floors support equipment that moves or has motion.

Comment Received on this Subsection:

- This section requires that floors, ramps, docks, trestles, and other structures that supports equipment that moves or has motion such as vibration must be no less than 2 ½ in [thick?] material. Is this section intended to apply only to “fixed” structures, or moveable ones as well? It seems that the requirement for the factor of safety should be sufficient to dictate the thickness of the material used. For example, forklift “car plates” - moveable ramps that bridge the gap between a loading dock and a trailer, ramps used to load automobiles onto rail road car trains, or ramps used to offload automobiles from a ship may meet the 4 to 1 safety standard in 296-800-27015, but still be made out of material less than 2 ½ in thick. It is recommended that the thickness requirement be deleted.

Department Response to Comment:

- For clarification we added the word "fixed" to the rule.

Changes to the Rule:

- Added clarifying language that reads, “Make sure flooring of buildings, ramps. Docks, trestles and other fixed structures that supports equipment that moves or has motion such as vibration, must not be less than 2 and 1/2 inch material.”

AMENDED SECTION: WAC 296-800-28015: Make sure electrical equipment used or located in wet or damp locations is designed for such use.

Comment Received on this Section:

- The diagram on the right side in this section denotes a weather-proof plug with two individual socket covers surrounded by a dashed line box type shroud. This diagram is confusing. Dashed lines on engineering drawings usually indicate a hidden feature. It is not common practice to have an external box over a weather-proof outlet that already has individual covers. Please clarify the intent of this diagram.

Department Response to Comment:

- We agree and made the change.

Changes to the Rule:

- We removed the dashed lines around the diagram.

AMENDED SECTION: WAC 296-800-28025, Maintain electrical fittings, boxes, cabinets, and outlets in good condition.

Comment Received on this Section:

- Suggest including dimensions in the table showing the required “foot” separation between electrical components A, B, and C.

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Department Response to Comment:

- We agree and made the change.

Changes to the Rule:

Conditions	0-150 volts to ground	151-600 volts to ground
A	3 <u>ft.</u>	3 <u>ft.</u>
B	3 <u>ft.</u>	3 1/2 <u>ft.</u>
C	3 <u>ft.</u>	4 <u>ft.</u>

AMENDED SECTION: WAC 296-800-28030, Maintain all flexible cords and cables in good condition and use safely.

Comment Received on this Section:

- Extension cords should not be included in this definition of flexible cords.

Department Response to Comment:

- A flexible cord set is an extension cord which are allowed for temporary use based on the National Electric Code 400, therefore, there is no change.

Comment Received on this Section:

- Extension cords should be removed from this section. They are only used for temporary purposes. This implies to permanent wiring.

Department Response to Comment:

- WISHA's interpretation is that extension cords can't be used for permanent wiring.

Comment Received on this Section:

- UFC Section 8506.2.2 only permits extension cord use with portable appliances.

Department Response to Comment:

- WISHA accepts the use of extension cords with portable equipment, such as power tools as well as portable appliances.

Comment Received on this Section:

- First bullet should read – "Make sure extension cords, as they can only be used on a temporary basis, are protected form accidental damage."

Department Response to Comment:

- WISHA's interpretation is that extension cords can't be used for permanent wiring.

Changes to the Rule:

Clarified the following language:

- And remove from service any defective or damaged cord until repaired and tested.
- 2) Make sure flexible cords and cables are used as described:

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Note: Extension cords (flexible cord sets) may be used on a temporary basis if you follow the rules described in the temporary use section, WAC 296-800-28030(3).

- Make sure insulation on flexible cords and cables is intact.

You must:

3) Provide the following for temporary use.

- Make sure temporary electrical power and lighting installations that operate at 600 volts or less are used only:
 - During and for remodeling, maintenance, repair or demolition of buildings and similar activities
 - Experimental or developmental work
 - For no more than 90 days for:
 - ♦ Christmas decorative lighting
 - ♦ Carnivals
 - ♦ Other similar purposes
- Make sure flexible cords and electrical cords used on a temporary basis are protected from accidental damage:
 - By avoiding sharp corners and projections
 - If they pass through doorways or other pinch points

AMENDED SECTION: WAC 296-800-300, Portable Fire Extinguishers

Comment Received on this Section:

- Note should read – “Fire safety codes for cities, counties, and state may be more restrictive than the rules in this section. You are encouraged to call your local fire authority for more information on the fire safety requirements in your area.

Department Response to Comment:

- We added a note in the introduction section of the Safety and Health Core Rule book clarifying WISHA’s relationship to other building, electrical and fire authorities.

Comment Received on this Section:

- The fire code never permits for an exemption for fire extinguishers.

Department Response to Comment:

- Taking this exemption out would be a change to this rule and therefore outside the scope of this rulemaking.

Changes to the Rule:

- Added note in WAC 296-800-100, Introduction: “How do the WISHA rules relate to fire, building and electrical codes?
Fire Codes: WISHA rules contain basic requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical hazards for the protection of employees in your workplace. The rules contained in this book are the most basic requirements to make sure that as an employer you provide a safe and healthy work environment. However, these aren't the only rules regarding the requirements for

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portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical equipment. The Fire Marshall and local fire authorities enforce the Uniform Fire Code (UFC). WISHA and UFC differ in some areas, for example UFC requires exit sign lettering to be 6" or more and WISHA only states that the letters have to be clearly visible. Fire codes have more detailed and extensive requirements for the protection of the public than WISHA. Some codes overlap with WISHA requirements.

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You are encouraged to call your local fire, building or electrical authority. For more information on the requirements in your area look in the government section of your phone book. Copies of these codes are available at your local library."

- Added note in WAC 296-800-300: "Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See "How do the WISHA rules relate to building, fire, and electrical codes" in the Introduction section of this book.

AMENDED SECTION: WAC 296-800-30005, Provide portable fire extinguishers in your workplace.

Comment Received on this Section:

- This whole section should be removed and reference UFC standard 10. There are many requirements for extinguisher selection and placement that this over simplification does not even begin to address:
 - * Specific requirements outlined in Chapter 3-1 through 3-6
 - * Specific requirements listed in Chapter 1-6, 1 through 1-8.2.

Department Response to Comment:

- This rule is performance based therefore the employer must use applicable fire safety regulations to determine compliance.

Comment Received on this Section:

- UFC Sec. 1002.2 Prohibits vaporizing liquid extinguishers containing carbon tetrachloride or chlorobromomethane extinguishers. In addition, soda-acid foam, loaded stream, anti-freeze and water extinguishers of the inverting type shall not be recharged or placed into service.

Department Response to Comment:

- We agree and added wording for clarification.

Changes to the Rule:

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- Added clarifying language: Make sure that your portable fire extinguisher does not use extinguishing agents such as carbon tetrachloride or chlorobromomethane extinguishing agents. In addition, soda-acid foam, loaded stream, anti-freeze and water extinguishers of the inverting type shall not be recharged or placed into service.

AMENDED SECTION: WAC 296-800-30010, Select and distribute portable fire extinguishers in your workplace

Comment Received on this Section:

- There is no exemption in UFC.

Department Response to Comment:

- Taking this exemption out would be a change to this rule and therefore outside the scope of this rulemaking.

Comment Received on this Section:

- Remove this section. This is too simplistic and does not include all spacing requirements outlined in UFC standard 10 chapter 3.

Department Response to Comment:

- Changing WISHA rules would represent a substantial change in requirements and is outside the scope of this rulemaking.

Comment Received on this Section:

- Table does not account for hazard level as found in tables 3-2.1, 3-2.5, 3-3.1, and 3-4.5. This impacts travel distance and significant placement requirements.

Department Response to Comment:

- We added a note to the table for clarification.

Changes to the Rule:

- Added a note in the fire extinguisher distance table: You may choose to use a smaller fire extinguisher in lieu of that required for the 50 foot distance. If you do choose to have the smaller fire extinguisher the travel distance must not be greater than 30 feet. See UFC Standard 10 Chapter 3 for the basic minimum extinguisher rating allowed.

AMENDED SECTION: WAC 296-800-30020, Inspect and test all portable fire extinguishers.

Comment Received on this Section:

- Remove this section and replace with UFC Standard 10 Chapters 4 & 5.

Department Response to Comment:

- This rule is performance based therefore the employer must use applicable fire safety regulations to determine compliance.

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Comment Received on this Section:

- Class II standpipe system should not be included in the portable fire extinguisher section. Different system with different requirements. Inspection is defined in UFC standard 10 Sec. 4-2.1 as a visual inspection. Inspections shall include:
 - Located in designated place.
 - No obstruction to access or visibility.
 - Operating instructions visible and facing outward.
 - Seal or tamper indicator not broken or missing.
 - Determine fullness by weight
 - Examine for damage, corrosion, leakage, or clogged nozzle.UFC Standard 10 4-3.4 required records on corrective actions plus monthly inspection including date and initials of inspector.

Department Response to Comment:

- Changing requirements dealing with standpipe systems would represent a substantial change in requirements and is outside the scope of this rulemaking. WISHA will review requirements when we re-write the rules for stand pipe systems.

Comment Received on this Section:

- This bullet should read – “Dry chemical extinguishers that have non-refillable disposable containers shall not be hydrostatically tested.”

Department Response to Comment:

- We agree, and added an exemption for clarification in WAC 296-800-30020.

Comment Received on this Section:

- UFC Standard 10 4-4.1.1 requires stored pressure type extinguishers containing a loaded stream agent to be disassembled annually for complete maintenance.

Department Response to Comment:

- This is moved to an exemption.

Comment Received on this Section:

- This section does not include:
 - Recharging
 - Leaktests
 - Frequency of soda-acid, foam, cartridge-operated water, and pumptanks.
 - Replacement of wetting agents.
 - Replacement of AFFF and FFFP as outlined in UFC standard 10 chapter 4.

Department Response to Comment:

- This rule is performance based therefore the employer must use applicable fire safety regulations to determine compliance.

Comment Received on this Section:

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- Exemption: pumptanks.

Department Response to Comment:

- We agreed and added the exemption.

Comment Received on this Section:

- UFC Standard 10 5-5 outlines required test recording either by label or stamping on the extinguisher.

Department Response to Comment:

- We have similar requirements in Chapter 296-24 WAC, General Safety and Health Standards.

Comment Received on this Section:

- Add note: Stored pressure water extinguishers with fiber glass shell (pre-1976) are prohibited from hydrostatic testing due to manufacturer's recall.

Department Response to Comment:

- We agreed and added a note.

Comment Received on this Section:

- Prohibited from testing in 1978 should be removed.

Department Response to Comment:

- We agreed and removed "Foam soldered brass shell until January 1, 1982."

Changes to the Rule:

- Added an exemption that reads: "Dry chemical extinguishers that have nonrefillable disposable containers are exempt from this requirement. Manually pressurized pump tanks are exempt from this requirement."
- Moved language to an exemption that reads: "Most stored pressure extinguishers do not require an internal examination. Examples of those that do require an internal examination are those containing a loaded stream agent."
- Added a note that reads: "Stored pressure water extinguishers with fiber glass shell (pre-1976) are prohibited from hydrostatic testing due to manufacturer's recall."
- Removed "Foam soldered brass shell until January 1, 1982" from the Hydrostatic test table.

AMENDED SECTION: WAC 296-800-30025, Train your employees to use portable fire extinguishers.

Comment Received on this Section:

- Add a third secondary bullet – "Know the locations and proper use of portable fire extinguishers (UFC 1303.5)."

Department Response to Comment:

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- WISHA requires that employers train their employees in the use of fire extinguishers where required.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-310, Exit Routes and Employee Alarm Systems

Comment Received on this Section:

- Replace this section with UFC 10 and 12.

Department Response to Comment:

- Replacing this section would represent a substantial change therefore this is outside the scope of this rulemaking.

Comment Received on this Section:

- Add a note that should read – “Fire safety and building codes for cities, counties and the State of Washington may be more restrictive than the rules in this section. Call your local fire authority for more information about the fire safety requirements in your area.”

Department Response to Comment:

- We added a note in the introduction section of the Safety and Health Core Rule book clarifying WISHA’s relationship to other building, electrical and fire authorities.

Changes to the Rule:

- Added note in WAC 296-800-100, Introduction: “How do the WISHA rules relate to fire, building and electrical codes?
Fire Codes: WISHA rules contain basic requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical hazards for the protection of employees in your workplace. The rules contained in this book are the most basic requirements to make sure that as an employer you provide a safe and healthy work environment. However, these aren't the only rules regarding the requirements for portable fire extinguishers, exit routes, housekeeping, storage, stairs and electrical equipment. The Fire Marshall and local fire authorities enforce the Uniform Fire Code (UFC). WISHA and UFC differ in some areas, for example UFC requires exit sign lettering to be 6” or more and WISHA only states that the letters have to be clearly visible. Fire codes have more detailed and extensive requirements for the protection of the public than WISHA. Some codes overlap with WISHA requirements.

Building and electrical codes: WISHA rules are minimum requirements regardless of when the building was built or remodeled. Buildings must also comply with building and electrical codes at the time of construction. If you remodel you must comply with the building and electrical codes applicable at that

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time. Building authorities and electrical inspection authorities enforce rules from the Uniform Building Code (UBC), and the National Electrical Code (NEC).

You are encouraged to call your local fire, building or electrical authority. For more information on the requirements in your area look in the government section of your phone book. Copies of these codes are available at your local library.”

- Added note in WAC 296-800-310: “Note: The introduction has important information about building, electrical and fire codes that may apply to you in addition to WISHA rules. See “How do the WISHA rules relate to building, fire, and electrical codes” in the Introduction section of this book.

AMENDED SECTION: WAC 296-800-31005, Provide an adequate number of exit routes.

Comment Received on this Section:

- There are additional exiting requirements not listed here based on the occupancy type.
WAC 51-40 (WA State Building Code) identifies in Table 10-A the minimum number of exits required based on occupancy and occupancy load. This section conflicts with the requirements. Remove this section and replace with WAC 51-40. This is not permitted under the UBC or WA Building Code.

Department Response to Comment:

- This rule is performance based therefore the employer must use applicable fire safety regulations to determine compliance.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31010, Make sure that exit routes are large enough.

Comment Received on this Section:

- The building code has specific requirements for exit area based on occupancy. This section should be removed as it conflicts with the building code. Combine sections and replace with:
“Every building or portion thereof shall be provided with a means of egress in compliance with as required by the Uniform Building Code.”

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31015, Make sure that exit routes meet their specific design and construction requirements.

Comment Received on this Section:

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- The language and requirements for exits, exit access, and exit discharge are not consistent with the building code. Doors must be 20 min. rated and self closing or automatic closing by actuation of smoke detector UBC 1004.3.4.3.2.1 (additional requirements in UBC)

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31020, Make sure that each exit route leads outside.

Comment Received on this Section:

- Replace section with UBC Section 1006. Title should read – “Make sure that each exit discharge leads to a public way”. This does not address exiting into exit court yards or yards as permitted in the UBC 1006.

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31025, Provide unobstructed access to exit routes.

Comment Received on this Section:

- Replace this section with UBC Section 1004. Exit access shall be arranged so that there are no dead ends in hallways and corridors more than 20 feet in length. UBC 1004.2.6

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31030, Exit doors must be readily opened from the inside.

Comment Received on this Section:

- May use special egress control devices not block or lock based on staff or plan. UBC Section 1007. Not only are panic hardware permitted, but it is the only type of locking device permitted on exit doors. Special egress control device requirements are listed in UBC 1003.2.1.10.

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Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31035, Use side-hinged doors to connect rooms to exit routes.

Comment Received on this Section:

- Replace with UBC section 1003. Only if the occupant load is 10 or more. UBC 1003.3.1.5. Replace the word “out” with “in the path of travel”. There are numerous other requirements for doors that are not addressed here. (i.e., swing force, etc.)

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31045, Minimize danger to employees while they are using emergency exit routes.

Comment Received on this Section:

- Combustible materials may not be stored in the exits and enclosed exits. UFC 1103.3.2.3

Department Response to Comment:

- Considering exits and enclosed exits anything that would interfere with free egress, WISHA would issue a citation under the obstruction requirements in WAC 296-800-31025.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31050, Mark exits adequately.

Comment Received on this Section:

- Replace this section with UFC Section 1212

Department Response to Comment:

- We added a note in the introduction section of the Safety and Health Core Rule book clarifying WISHA’s relationship to other building, electrical and fire authorities.

Comment Received on this Section:

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- There is a 4 foot exception to this in UFC 1212.2, so not all exits require a sign. Specific requirements listed in UFC 1212.3.

Department Response to Comment:

- The requirement would make WISHA less than effective as OSHA

Comment Received on this Section:

- Shall be located in necessary to clearly indicate the direction of travel. UFC 1212.2

Department Response to Comment:

- We agree and added clarifying language

Comment Received on this Section:

- Shall not be concealed or obstructed. UFC 1212.8

Department Response to Comment:

- We agree and added clarifying language

Changes to the Rule:

- Added clarifying language that reads: “and clearly indicate the direction of travel” and not obstruct or conceal exit signs in any way”.

AMENDED SECTION: WAC 296-800-31053, Provide adequate lighting for exit routes and signs.

Comment Received on this Section:

- Anytime occupied shall be illuminated at not less than 1 foot candle at floor level (with exception UBC 1003.2) Remove this bullet. This section is not required. Replace with UBC Sec. 1003.2.8.3 – 1003.2.8.5.

Department Response to Comment:

- Changing WISHA rules to conform with the building code would represent a substantial change in requirements and is out of the scope of this rulemaking.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31055, Maintain the fire retardant properties of paints or other coatings.

Comment Received on this Section:

- Treatments used to render materials flame resistant shall be renewed as often as necessary to maintain the materials flame resistance. UFC 1103.3.3.6

Department Response to Comment:

- The requirements in WISHA and the UFC are similar, therefore no change.

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Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31060, Maintain emergency safeguards.

Comment Received on this Section:

- Remove this section and reference the UFC.

Department Response to Comment:

- We added a note in the introduction section of the Safety and Health Core Rule book clarifying WISHA's relationship to other building, electrical and fire authorities.

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31070, Install and maintain an appropriate employee alarm system.

Comment Received on this Section:

- Remove this section and replace with UFC Section 1007
 - There are specific alarm requirements based on occupancy type not covered here.
 - There is no exemption based on the number of employees. This needs to be removed

Department Response to Comment:

- This would represent a substantive change

Comment Received on this Section:

- Not sure what tactile devices means? It seems this would require both audible and visual alarms.

Department Response to Comment:

- We have tactile devices listed for persons of disability

Comment Received on this Section:

- What does this mean? "Make sure that a working employee alarm system with a distinctive signal to warn employees of fire or other emergencies is installed and maintained, unless employees can see or smell a fire or other hazard." Remove this section.

Department Response to Comment:

- If we remove this section, WISHA would not be as effective as OSHA

Comment Received on this Section:

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- What is this? “Make sure the following systems meet the requirements of this rule, if you use them as your employee alarm system:
 - Supervisory alarms
 - Discharge alarms
 - Detection systems required on fixed extinguishing systems
 - Detection systems required on fire suppression systems”

Department Response to Comment:

- An alarm that sounds when you have an automated extinguishing system that may pose a threat of health or safety to an employee. The alarm sounds for the employees to evacuate the area.

Comment Received on this Section:

- Remove “In working order, except when undergoing repairs or maintenance
- Having a distinctive signal to warn employees of fire or other emergencies, if they are not able to see or smell a fire or other hazard”

Department Response to Comment:

- This would represent a substantive change.

Comment Received on this Section:

- Remove the words “if provided” and replace with “if required.”

Department Response to Comment:

- “If provided” is more restrictive than “if required.”

Comment Received on this Section:

- Remove this. The fire code doesn’t use “tactile devices”

Department Response to Comment:

- We have tactile devices listed for persons of disability

Comment Received on this Section:

- There is a specific testing and maintenance requirements outlined in UFC standard 10-2

Department Response to Comment:

- This rule is performance based therefore the employer must use applicable fire safety regulations to determine compliance

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31075, Establish procedures for sounding emergency alarms.

Comment Received on this Section:

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- Add as bullet – “Require that all emergency’s get reported to local emergency services immediately.”

Department Response to Comment:

- This would be considered a substantive change and, therefore, outside the scope of this rulemaking

Changes to the Rule:

- No change to the rule based on public comment.

AMENDED SECTION: WAC 296-800-31080, Test the employee alarm system.

Comment Received on this Section:

- Remove wording in both bullets and replace with the following wording “UFC Standard 10-2 Table 7-31 outlines testing requirement frequencies. Testing may be required monthly, quarterly, semi-annually or annually depending on part or type of system

Department Response to Comment:

- We added a note in the introduction section of the Safety and health Core Rule book clarifying WISHA’s relationship to other building, electrical and fire authorities.

Changes to the Rule:

- No change to the rule based on public comment.

ADDITIONAL COMMENTS:

Comment Received:

- Can WISHA Regional Directives (WRD’s) that have been issued historically from the department also be updated with a cross index to the new 800 requirements?

Department Response to Comment:

- The WRDs will be updated to reflect the new code numbers. Also, WRDs being developed now are being drafted to include both the current numbers and the new numbers.

Comment:

- The WISHA Core Rules staff is to be commended for their work in the clarification and simplification of the work rules in this package. Our final suggestion is that these rules be published in a “pocket” sized format so supervision and workers may have ready access to them on the job.

Department Response to Comment:

- We understand that the "pocket" size format is user friendly for some rules. We don't believe that a 200-page rulebook would be user friendly in the "pocket" size.

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Comment:

- Refreshing. Appreciate the website. This is an easy format. Easy for an employer to know what is expected and where to find the information needed. These new rules should reduce the number of times Wisla gets contacted out of pure frustration.

Department Response to Comment:

- Thank you.

Comment:

- I want to commend the department on this project. It is a project long overdue. I participated in the usability study for this project a while back. The amount of work that has gone into rewriting is evident by the organization and how much easier it was to use and to find things. The joint effort by business and labor - I have not seen this done before. The result is very good.

Department Response to Comment:

- Thank you.

Comment:

- I have one concern which needs to be addressed, and that is the law of unintended consequences. There was testimony today that there is the possibility that there might be substantive changes that were unintended. I would like to formally request that the department establish some way, in the future where both business and labor can request rule changes, whether that is a revisit of the rule. I know this a lot more work on the department, but I think it is necessary because a lot of these problems will crop up in future years with usage. This book is far too big now to digest it, and I don't know if there's any nuances. I would like to request a hearing process sometime in the future where people that use this rule can come and request changes of the department rules.

Department Response to Comment:

- We expect and welcome comments to the Safety and Health Core rules as it is used. We fully expect there will be changes as a result of requests resulting from people becoming familiar with the book. However, we do want to give the core rules a year or more of being in effect before we take it back through any amendment processes.

Comment:

- We have a situation in agriculture where legislatively agriculture is exempt from the requirements in Chapter 24, and yet through common practice we have followed all the requirements of Chapter 62, and this is a hybrid of the two. My request is that the department meets with agriculture sometime in the future and figure out how we are going to address this new rule in terms of the existing agriculture exemptions.

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Department Response to Comment:

- The department will meet with the agriculture community to discuss how to address changes to agriculture rule.

Comment:

- Several comments regarding discrimination and results of filing a WISHA safety and health complaint.

Department Response to Comment:

- The comments are outside the scope of this rulemaking.

Comment:

- I represent the Pacific Northwest Regional Council of Carpenters. I want to applaud all the people that worked to making these rules in such a format that the average worker can check for himself what is required of his employer and himself, instead of relying on the employer. I think it is a win/win situation for both sides. Some are less enthusiastic about the enforcement of the rules, but I'm sure that we can come to some kind of agreement.

Department Response to Comment:

- Thank you.

Comment:

- On behalf of the Boeing Company, we want to state that we are very much in support of the department's efforts on this innovation project. The rule-rewriting went exceptionally well. The department is to be congratulated, and the task force that they assembled has done a tremendous job. We have had a number of our safety professionals looking at these rules and have not found a thing yet in there that seems to have been missed.

Department Response to Comment:

- Thank you.

Comment:

- The problem I envision occurs when compliance inspectors write citations for violations of the new core rules that do not apply to agriculture. Please mail us a letter that explains which rules apply to agriculture now, and which will apply on September 1, 2001, when the core rules go into effect.

Department Response to Comment:

- The rules that were formerly in Chapter 296-62 WAC, General Occupational Health Standards that moved to Chapter 296-800 WAC, Safety and Health Core Rules will be added to Chapter 296-307 WAC, Safety Standards for Agriculture, therefore nothing in Chapter 296-800 WAC will apply to agriculture.

Comment Received on this Section:

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- I am representing Inland Foundry Company. Question regarding various codes as they relate to Wisha requirements. An example, Uniform Building Code. UBC has construction standards as they relate to the building, Wisha has standards relating to employees. The problem is not recognizing the UBC for what it was when the building was constructed or the fact that there is a uniform fire code that is in place to deal with fire code maintenance issues. It appears that Wisha does exceed the code that is in place. Wisha is trying to take care of the employee, but the problem is they don't want to accept what the fire inspector's signed off or recognize that either the county fire marshall or the various city fire departments are already in place to do this. There is a big clarity issue with respect to how we relate to other codes as well as the Wisha standards.

Department Response to Comment:

- We added a note in the introduction section of the Safety and Health Core rulebook clarifying WISHA's relationship to other building and fire authorities.

CHANGES MADE NOT AS A RESULT OF PUBLIC HEARING COMMENTS:

- If you would like a copy of the changes made from the proposal of the Safety and Health Core Rules to the adoption, you can call Jeff Grimm at (360) 902-5541 or at www.lni.wa.gov/wisha/innovations.
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